

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS  
 : OF ERIE COUNTY, PENNSYLVANIA  
 : TRIAL COURT DIVISION

vs.

RANDOLPH S. TANGLE : NO. 1833 OF 1993

### ORDER OF COURT

AND NOW, to-wit, this First day of November, 2001, upon consideration of Defendant's pro se Petition for Writ of Mandamus, pro se Application for Assignment of Counsel and pro se Application for Request for Discovery to Inspect Sealed Documents and Surveillance Tapes for Preliminary Objections and/or Evidentiary Hearing, it is hereby **ORDERED, ADJUDGED AND DECREED** that said Petitions are DENIED, based upon the following reasons:

A Writ of Mandamus is a civil action that must be initiated by filing a Complaint in an agreement for an amicable action with the Prothonotary, pursuant to Pa.R.Civ.P. 1093. The Erie County District Attorney's Office contacted a deputy prothonotary and requested a review of the records on October 9, 2001, which resulted in no appropriate filing being found. Additionally, the docket number utilized by Defendant is a criminal court docket. Therefore, the Pennsylvania Rules of Civil Procedure have been violated.

Furthermore, Pa.R.Civ.P 1091, requires that a procedure in Mandamus must be in accordance with the rules relating to a civil action. As previously mentioned, Defendant has failed to file and serve the appropriate pleadings, as required by the rules.

The Pennsylvania Appellate Courts have previously addressed the issues raised herein by Defendant, as well as the federal court. Defendant has failed to raise any new issues and his action lacks a basis. Also, the Writ of Mandamus filed by Defendant would appropriately be treated in the nature of a Motion for Post Conviction Collateral Relief (hereinafter PCRA). Defendant has previously filed a PCRA, which was subsequently denied. Defendant filed said PCRA prior to the

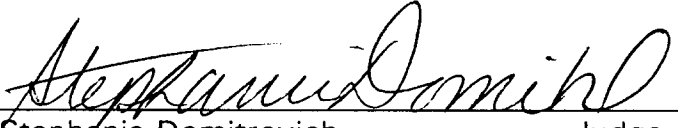
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current amendments to the PCRA statute; therefore, Defendant would have had to file his PCRA within one year of enactment of the amendments and/or within one year from the date judgment became final unless Defendant alleged and proved one of three circumstances, which Defendant has failed to do. See Pa.C.S. §9545. Defendant's instant PCRA is untimely filed, since it was not filed within the one year grace period, nor was it timely filed after denial of his Federal Habeas Action.

Defendant's pro se Application for Appointment of Counsel is not appropriate in a civil action. Further, under the PCRA statute, Defendant is entitled to counsel upon filing of the first PCRA; however, this is Defendant's second PCRA.

Defendant is not entitled to any further information, since he received all discovery in 1993. Additionally, no viable cause of action is now pending before the court, thereby no further discovery is warranted.

BY THE COURT:

  
Stephanie Domitrovich Judge

NOTICE WAS GIVEN TO EACH PARTY OR  
COUNSEL OF RECORD BY ORDINARY MAIL

ON: November 2, 2001

Copy to: Patricia J. Kennedy, Esq.

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